IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2912 of 2007()

CC.468/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

.....

PETITIONER: ACCUSED

SARAVANAN, S/O MANIKUTTY,
DURGA NAGAR THIRUNELLAYPALAYAM,
PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT

STATE,REPRESENTED BY S.I. OF POLICE,
TOWN SOUTH POLICE STATION PALAKKAD, THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2912 of 2007

Dated this the 18th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 324 I.P.C. The prosecution was initiated as C.C.No.468/2002. The petitioner is the sole accused. When the matter reached the stage of 313 questioning, the petitioner started not appearing before the trial court. The learned Magistrate was obliged to initiate coercive proceedings against the petitioner. The petitioner now finds a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007